

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

April 8, 2019

1:32 p.m.

**MEMBERS PRESENT**

Representative Geran Tarr, Co-Chair  
Representative Grier Hopkins, Vice Chair  
Representative Sara Hannan  
Representative Ivy Spohnholz  
Representative Chris Tuck  
Representative Dave Talerico  
Representative George Rauscher  
Representative Sara Rasmussen

**MEMBERS ABSENT**

Representative John Lincoln, Co-Chair

**COMMITTEE CALENDAR**

PRESENTATION(S):        MINING    INDUSTRY    TAXATION~    DEPARTMENT    OF  
REVENUE

- HEARD

PRESENTATION(S):    MINING INDUSTRY UPDATE

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

BRANDON SPANOS, Deputy Director  
Tax Division  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION    STATEMENT:**        Provided a PowerPoint presentation  
entitled, "Mining Tax Overview," dated 4/8/19.

KELLY MAZZEI, Excise Audit Manager  
Tax Division  
Department of Revenue (DOR)

Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the Department of Revenue's presentation on mining taxation.

DEANTHA CROCKETT, Executive Director

Alaska Miners Association

Anchorage, Alaska

**POSITION STATEMENT:** Co-provided a presentation entitled, "Mining Industry Update," dated 4/8/19.

KAREN MATHIAS, Executive Director

Council of Alaska Producers

Anchorage, Alaska

**POSITION STATEMENT:** Co-provided a PowerPoint presentation entitled, "Mining Industry Update," dated 4/8/19.

#### **ACTION NARRATIVE**

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**CO-CHAIR GERAN TARR** called the House Resources Standing Committee meeting to order at 1:32 p.m. Representatives Hannan, Talerico, Spohnholz, Rauscher, Hopkins, and Tarr were present at the call to order. Representatives Rasmussen and Tuck arrived as the meeting was in progress.

#### **PRESENTATION(S): MINING INDUSTRY TAXATION, DEPARTMENT OF REVENUE**

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**CO-CHAIR TARR** announced that the first order of business would be a presentation by the Tax Division, Department of Revenue.

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**BRANDON SPANOS**, Deputy Director, Tax Division, Department of Revenue (DOR), provided a PowerPoint presentation entitled, "Mining Tax Overview," dated 4/8/19. Turning to slide 3, he outlined Alaska's mining tax history. He said the tax began in 1913 with the original tax being 0.5 percent on mining net income of more than \$5,000 and no tax for net income less than \$5,000. He explained that the state levies a mining tax on mining net income and royalties received in connection with mining properties and activities in Alaska. The Tax Division, he noted, collects Mining License Tax primarily on those engaging in coal and hard-rock mining.

MR. SPANOS moved to slide 4 and noted numerous changes were made to the tax between 1915 and 1953. In 1951, the Territorial Legislature authorized the three and one-half-year exemption for all new mining operations, he related, which is still in statute today. In 1955, he continued, the current tax structure was adopted: no tax on mining income of \$0-\$40,000; 3 percent tax on mining income between [\$40,0001] and \$50,000; and up to 7 percent tax on mining income over \$100,000.

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REPRESENTATIVE HANNAN asked whether the amount of money entailed by the three and one-half-year exemption has been calculated and whether the exemption's goal is to give an operation the opportunity to break even before the state starts taxing it.

MR. SPANOS replied he doesn't know whether a calculation on the lost revenue has been done. He said most mines operate at a net loss in the first year or so, therefore [the tax loss] would generally be minimal. The number of those trying to claim the credit is in the double digits, he continued, and only about seven have ever been approved.

REPRESENTATIVE HOPKINS inquired how Alaska compares to other states for mining taxation.

MR. SPANOS responded the tax structure is relatively unique in that the tax is based on income, so it is structured like an income tax. In most states the tax is a true severance tax based on either weight or value of the product, he explained, whereas Alaska's is a severance tax that is based on the net income of the operation.

CO-CHAIR TARR offered her understanding that the exemption is for three and one-half years from the day that the mine is considered operational.

MR. SPANOS confirmed no tax is paid for three and one-half years from the date of initial production.

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MR. SPANOS resumed his presentation. Showing slide 5, he stated that anyone who is operating, or extracting, or attempting to extract, valuable metals, ores, or minerals must have a mining license. The mining license is in lieu of a business license,

he explained, so it is on any miner, even those who are doing small suction dredging or placer mining, although it is unlikely they would pay any tax. There is no license through the Department of Commerce, Community, and Economic Development, he continued, so DOR is the licensing body. One taxpayer may hold multiple licenses on the property he/she is mining, he added. There are no fees for the mining license and anyone operating without a license is guilty of a misdemeanor.

REPRESENTATIVE HANNAN inquired about the cost of a typical business license for a corporation.

MR. SPANOS replied that a business license is issued for two consecutive years and costs \$100.

MR. SPANOS continued his presentation. Addressing slide 6, he said the different mining license types are coal, hard rock, open pit, placer and suction dredging. Coal mining is the removal of coal, he noted, while hard rock mining usually entails drilling shafts into a rock face, using explosives, and then crushing the removed rock to extract the minerals. Open pit mining is the digging of a pit, he stated, and placer mining recovers valuable minerals from loose gravel. Ninety percent of the licenses are for placer or suction mining, he added.

MR. SPANOS turned to slide 7 and reviewed the three license categories. Two types of licenses are issued for an owner, he said. An owner/operator owns and operates his or her own mine and an owner/lessor owns and leases to someone else to operate the owner's property. The third type of license, he continued, is the lessee/operator that leases the property from an owner. He explained the license category matters because the owner of the property is the only one who can take the depletion deduction, so DOR wants to know who that is.

MR. SPANOS displayed slide 8 and noted that a mining license is not required for someone who is: merely holding property for exploration; holding a mineral interest in undeveloped and non-producing land; or mining sand, gravel, quarry rock, or earth. He pointed out that sand, gravel, quarry rock, and earth mining was exempted from taxation in 2012.

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MR. SPANOS turned to slide 9 and said anyone holding a mining license, or anyone that should be holding a mining license, must file a Mining License Tax return. This would include anyone who

is extracting or attempting to extract valuable minerals from the earth, he continued, as well as anyone who is a royalty recipient. Royalty recipients pay taxes on the royalties they receive, he added, and those that are paying the royalty get that as a deduction on their tax return. Moving to slide 10, he said the tax return is an annual return that is due before the first day of the fifth month following the taxpayer's fiscal year end, or for calendar year taxpayers, the return is due by April 30<sup>th</sup>. He said a 6-month extension would be provided if [the requisite] form were filed.

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REPRESENTATIVE HANNAN asked who would be a fiscal year taxpayer, as opposed to a calendar year taxpayer.

MR. SPANOS replied it would depend upon how the corporation or company is formed. A company would choose fiscal year as opposed to calendar year based on its business practices and would make the election with the Internal Revenue Service (IRS). A fiscal year can be the end of any month, he explained; for example, if the mining is only occurring in the summer the taxpayer may want the fiscal year to end right after the summer.

REPRESENTATIVE HANNAN noted that the number of mining companies paying tax to the State of Alaska is small. She inquired whether DOR knows all of their fiscal years.

MR. SPANOS responded that in 2014 DOR started a new system, the Tax Revenue Management System, for which the legislature appropriated the money. This system allows DOR to have better reporting and better confidence in its numbers and data, he said. As far as fiscal year versus calendar year, he continued, there are roughly 500 taxpayers in the mining tax world, while in the corporate tax world there are about 17,000 taxpayers that have calendar year and fiscal year end dates, with many more on fiscal years than in the mining group. He said the department's reports are fairly straightforward and DOR can run those reports and see who is on which. The number of taxpayers that actually pay the Mining License Tax is fairly small, he said, but he doesn't have that number with him today. He explained that the report is done on the state's fiscal year, so a tax received in the state's fiscal year is reported in that fiscal year.

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MR. SPANOS resumed his presentation. Continuing with slide 10, he said that shortly after [funding] the Tax Revenue Management System in 2014 the legislature passed a statute requiring that all returns be filed electronically. However, he noted, a waiver from filing an electronic tax return can be granted. The mining tax world has the most waivers, he continued, with about 50 percent of the returns filed electronically and rest filed on paper. If a taxpayer files on paper without having a waiver, a \$25 penalty for 1 percent of the tax due is incurred, so in a case of the mining license it is usually \$25 that the taxpayer is paying. The larger taxpayers that actually pay tax would either have a waiver or file electronically.

MR. SPANOS moved to slide 11 and reviewed how the Mining License Tax is calculated. The tax is based on net income, he said, and net income is the gross income [from mining operations] less deductions [of allowable mining expenses]. Mining gross income, he explained, includes everything from the value received from selling the mineral all the way up to the fair market value of the product that is shipped out of the state. If the product is [not sold, but is] shipped out of the state, [DOR] cannot track it any longer and therefore the income is based on what should have been received when the material was shipped out. He said allowable deductions include depletion, direct expenses, and indirect expenses. Direct expenses include such things as royalties paid, fuel, oil, development costs, extraction costs, maintenance and repairs, salaries, transportation costs, and depreciation of mining equipment. Indirect expenses include advertising, insurance, legal and professional fees, office supplies, rent for the office, utilities, and overhead. He said expenses disallowed as a deduction include exploration costs, federal income tax, losses on the sale of mining equipment, net operating losses, and other capital losses.

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REPRESENTATIVE RASMUSSEN asked whether any recent studies have compared Alaska's mining tax system to those in the Lower 48.

MR. SPANOS answered that no studies have been done, but hearings [have been held] in the past. The previous administration proposed to increase the tax, he said, and there were many discussions about what that would look like. At one point a task force was proposed to look at the structure of the tax and compare it to other states, but that never came to fruition.

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REPRESENTATIVE TALERICO requested confirmation that exploration cost is not an allowable deduction.

MR. SPANOS confirmed exploration cost is not an allowable deduction. But, he continued, a credit is available and will be reviewed later in the presentation.

REPRESENTATIVE TALERICO related he knows of a mine that spent millions of dollars on exploration costs so the mine could expand. He surmised those costs wouldn't count as a deduction against the Mining License Tax.

MR. SPANOS replied correct.

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REPRESENTATIVE RAUSCHER asked how many mines in Alaska actually pay a tax.

MR. SPANOS offered his belief that about 10 mines are the major taxpayers. He deferred to Ms. Kelly Mazzei to answer further.

KELLY MAZZEI, Excise Audit Manager, Tax Division, Department of Revenue (DOR), answered that a few years ago DOR broke out the numbers by tax brackets: 10 taxpayers were in the uppermost tax bracket of 7 percent with a net income of over \$100,000, and 19 taxpayers were in the 5 percent tax bracket with a net income between \$40,000 and \$100,000. The majority of taxpayers, about 400, had a net income between \$0 and \$40,000 and therefore did not pay a tax.

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REPRESENTATIVE SPOHNHOLZ requested the definition of depletion.

MR. SPANOS said he would be discussing depletion later on.

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REPRESENTATIVE TUCK inquired as to how and who sets the [fair market] value of mined material that isn't sold in Alaska [but is shipped out of the state]. He further inquired whether that has been tested to ensure that that would be the value. He clarified he is asking whether the Tax Division sets the fair market value or verifies it through audit.

MR. SPANOS answered that when a taxpayer is regularly exporting, generally the mined material is sold somewhere, so [the Tax Division] would base it on that value if it were an arm's length transaction. If it weren't an arm's length transaction, he continued, [the Tax Division] would look at what it is sold for in the market. The number of taxpayers is fairly small, he added, so the division is able to work with taxpayers when the division has a question. If it is in the course of an audit, the division will generally take the state's best interest to heart when looking at that fair market value. However, he noted, a taxpayer that disagrees always has appeal rights.

REPRESENTATIVE TUCK asked whether disagreement happens often.

MR. SPANOS replied the fair market value issue happened more often when the division was dealing with sand and gravel - while not a lot of these materials were exported, there was a fair market value calculation. He said he couldn't recall it being a dispute issue in recent years.

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REPRESENTATIVE RASMUSSEN requested the definition of an arm's length sale for the Tax Division's purposes.

MR. SPANOS responded arm's length would be that a third party is involved. If an entity were selling to a sister entity, it would not be an arm's length transaction. It is based on ownership of each company, he said.

MR. SPANOS displayed slide 12 and continued his presentation. He explained that depletion is the term used for "depreciation of a mineral property used to extract a natural resource." He said development costs are capitalized and then depleted using one of two allowable methods - cost depletion and percentage depletion. Alaska statute defines both methods, he stated, and provides that the taxpayer can use the method that gives the taxpayer the most benefit. The percentage depletion cannot exceed 50 percent [of a taxpayer's net income], he noted, and the statute says a taxpayer gets percentage depletion unless cost depletion is more favorable.

MR. SPANOS moved to slide 13 and explained that under cost depletion, the most traditional method, total development costs are deducted over an estimated life of the mine. Once all development costs are deducted or depleted, a cost depletion expense is no longer allowed, he explained. He said cost

depletion is limited to the cost basis of the mine and is calculated as follows: the deplete rate is the cost basis divided by estimated number of recoverable units and then the depletion rate is multiplied by the number of units sold.

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REPRESENTATIVE RAUSCHER asked what the second largest taxpayer is next to the oil industry, as far as natural resources. He clarified he is meaning the amount of taxes the taxpayer has to pay based on the taxpayer's revenue, so the percentage.

MR. SPANOS answered he would get back to the committee on that. However, he noted, in 2018 the fishing industry paid about \$46 million in Fishing Business Tax and \$9.7 million in Resource Landing Tax, plus the fishing industry has other taxes. He said that in fiscal year 2018 roughly \$47.3 million was paid in Mining License Tax, so the fishing industry paid more in 2018.

REPRESENTATIVE RAUSCHER asked whether mining and fishing are it.

MR. SPANOS replied he believes so.

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REPRESENTATIVE HANNAN inquired how the division determines the number of years that cost depletion is going to be taken out; for example, whether it is the permitted life of the mine.

MR. SPANOS reiterated that there are two different types of depletion. Cost depletion is over the estimated life of the mine, he said; [the number of] recoverable units would be estimated and that [number] used to calculate the depletion until it is fully depleted. He pointed out that the mine could continue to operate after the depletion is fully taken.

REPRESENTATIVE HANNAN asked who tells the division what the estimated life of the mine is - the operator, the agencies giving the operator permits, or some other factor.

MR. SPANOS responded it would be the operator and the operator would have specialists who determine how many recoverable units there are.

REPRESENTATIVE HANNAN inquired whether the life of the mine expenditure typically matches what the mine is permitted for.

MR. SPANOS answered that the division sees cost depletion fully depleted and mines still operating, and so an analysis would need to be done to see if that is typical.

MR. SPANOS returned to his presentation and addressed slide 14. He explained that percentage depletion is based on a percentage of the gross income [less royalties paid]. The percentage amount is spelled out in statute and is based on what mineral is being extracted, he said; for example, the percentage depletion for coal mines is 10 percent and for sulphur mines it is 23 percent. The depletion deduction is capped at 50 percent of the net income of the taxpayer, he continued, and can be taken after the costs are fully depleted from the development of the mine.

REPRESENTATIVE TUCK asked whether both methods could be used or only one or the other.

MR. SPANOS replied that a taxpayer gets one or the other method in each year, whichever method is most beneficial to the taxpayer. So, both methods can be used over various years, he continued, but only one method can be used per year.

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MR. SPANOS resumed his presentation. Turning to slide 15, he discussed the three and one-half-year mining tax exemption. He noted that since 2001 approximately 26 requests for exemption have been received - 19 were denied and 7 were granted. The exemption statute spells out that it is basically for a new mine operation, he explained, so an [Affidavit of Initial Production] must be filed with the Department of Natural Resources (DNR) spelling out why it would be a new mine. The mine is analyzed by DNR, he continued, and if DNR believes it falls under the definition of a new mine it will let DOR know and the new mine will receive a three and one-half-year exemption. He said considerations that might go into that determination include whether the prior owner has paid taxes, the location of the mine, geological structure, mining techniques and technology, and new capital invested.

REPRESENTATIVE RAUSCHER inquired what the average reason might be for why the 19 exemption requests were denied.

MR. SPANOS responded it would be if the land has been previously mined, because if it has already been mined someone cannot claim it is a new mine.

CO-CHAIR TARR asked whether the denied exemption requests were primarily because the land had been mined before.

MR. SPANOS answered he would have to get back to the committee, but that that typically is the reason. The statute says if tax has been paid on it before it is an indication that it has obviously been mined before. He said the categories that are looked at are to determine whether it is a new mining operation or the mine is being started up again. In further response to Co-Chair Tarr, he suggested Ms. Mazzei be asked the question.

MS. MAZZEI replied that in her experience most denials for exemptions are because it is not considered a new mining operation. The reasons could have to do with the technology used and what type of new capital is invested, she said. Sometimes an applicant believes it is a new mining operation because a significant amount of money was spent in considering new mining technology and new assets. However, the exemption request will most likely be denied, she continued, if the applicant cannot prove beyond a reasonable doubt that it is a brand-new technology and not just maintaining or repairing old technology. Another reason, she added, would be if an applicant tried to stay on a mining location in an area that has not been mined before and therefore the applicant thinks it is a new mining operation; but if it is adjacent to, or could be considered part of, a previous mining operation that exemption request would probably be denied.

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REPRESENTATIVE HANNAN offered her understanding that a mine operation doesn't have to be entirely new property [to qualify for the three and one-half-year exemption]. An applicant for the exemption could reach out into new boundaries, but in areas not mined before, and could be using new technology in a new shaft. She posed a hypothetical scenario in which a new vein is discovered 100 yards away in another direction at the Kensington Gold Mine currently operating in her district. She surmised that when Kensington filed to get into that new underground vein, it could be considered a new mine even though shore-side and top-side the same physical plant would be operating it.

MS. MAZZEI responded correct. Paraphrasing from parts of the regulation, she related that the following would be looked at: geological structure of the ore body in relation to other ore bodies the person mines; the mining techniques and technology used; and the extent to which the person is required to invest

new capital, employ different personnel, and use additional facilities to exploit the resource. The exemption statute is under Title 38 of the Department of Natural Resources, she pointed out, so DNR usually looks at the details of the mining operation more than does the Tax Division and DNR makes a recommendation. Determining the eligibility for the exemption can become quite complicated and is not necessarily black and white, she noted. It can take quite a bit of research and geographical mapping to come up with a determination.

REPRESENTATIVE HANNAN inquired whether three and one-half years is a common length of time for an exemption in most states that have operational mines.

MR. SPANOS answered he doesn't know whether other states have an exemption for new mines. He said he would get back to the committee.

REPRESENTATIVE RASMUSSEN stated she is also curious about the amount of time because her understanding from a previous presentation is that it takes 15-17 years to have the permits done in Alaska. How Alaska compares to other states needs to be considered by the committee, she said.

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MR. SPANOS moved to slide 16 and continued his presentation. He reviewed Alaska's two mining tax credits, the Exploration Incentive Credit and the Education Tax Credit. He explained that a person could receive a credit for exploration costs incurred up to \$20 million. Exploration costs include surveying, drilling exploration holes, [conducting underground exploration, sampling, and aerial photography]. The Education Tax Credit was expanded and extended in 2011 and 2014, he continued, and only four taxpayers have claimed this credit in the Mining License Tax; most of the claims for this credit are taxpayers in the corporate income tax.

REPRESENTATIVE TUCK asked whether the state approves the Exploration Incentive Credit before the activity takes place or during the activity.

MR. SPANOS replied it is claimed on the tax return, so is after the fact. To his knowledge, he said, the division doesn't approve those credits. He deferred to Ms. Mazzei to answer.

MS. MAZZEI responded that exploration expenses are incurred before applying for the credit and taking it on the tax return. She said taxpayers use Form 665 to file for The Alaska Exploration Incentive Credit, which is available to payers of the Alaska Mining License Tax, the Corporation Net Income Tax, and through DNR's Production Royalty Tax.

REPRESENTATIVE RAUSCHER asked how much the Exploration Incentive Credit has cost the State of Alaska.

MR. SPANOS replied that the state has had no claims for that tax credit in the Mining License Tax. He said he would get back to the committee regarding how much credit has been claimed under the Corporation Net Income Tax and the Production Royalty Tax.

REPRESENTATIVE RAUSCHER said he would also like to know how much the four mines have contributed to the state's revenue.

MR. SPANOS replied that the four mines he mentioned had claimed the Education Tax Credit, not the Exploration Incentive Credit.

REPRESENTATIVE RAUSCHER asked whether the mines have benefitted from the Exploration Incentive Credit.

MR. SPANOS reiterated that no one has claimed the Exploration Incentive Credit in the Mining License Tax.

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REPRESENTATIVE HANNAN requested an explanation of the Education Tax Credit.

MR. SPANOS qualified the credit has changed over time and he is going from memory, but explained that the taxpayer would get a portion of the first \$100,000 spent, which he thinks may now be up to 100 percent, and the taxpayer would get a portion of the next \$100,000 spent.

REPRESENTATIVE HANNAN asked where the money would have been spent; for example, whether it was contributed to a school district or the workers got masters degrees in geology.

MR. SPANOS answered it is for contributions to education, which includes secondary education, so colleges are generally the largest recipients of the donations.

REPRESENTATIVE HANNAN surmised the University of Alaska College of Mines might be a common recipient of donations. She surmised the donation could then be used as a deduction by the taxpayer.

MR. SPANOS clarified it would be a credit on the taxpayer's taxes. The credit has been expanded to fit more than just the traditional colleges, he said, so the donation could be to a nonprofit as an education charter.

REPRESENTATIVE HANNAN inquired whether it would include school districts for grades K-12 and observed that people were shaking their heads no to the question.

CO-CHAIR TARR recalled a presentation by a University of Alaska, Fairbanks, professor in which it was stated that Greens Creek Mine donates to the mining certification program.

REPRESENTATIVE RASMUSSEN asked whether companies are able to have a fund that reimburses their employees for education and whether a company could apply for the Education [Tax Credit] if the company pays the tuition directly for an employee.

MR. SPANOS answered a company would need to structure it so that it is a charitable contribution. If a company just pays for an employee's education, he continued, it would not be considered a contribution to a charitable organization. He said a company could set up a nonprofit, contribute to that nonprofit, and have the nonprofit determine where that money goes, which could be for the company's employees.

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CO-CHAIR TARR expressed her surprise that no one has applied for the Exploration Incentive Credit. She asked whether this credit is a new addition to the tax structure.

MR. SPANOS replied no, it isn't new. He said the division finds that most of the "education credits" are claimed in the corporate income tax world. They are available in many different tax types, he said, including mining, oil and gas production, oil and gas property, but generally are claimed on the corporate tax return.

CO-CHAIR TARR offered her understanding that the aforementioned answer from Mr. Spanos was for the Education Tax Credit. She inquired whether the taxpayer must choose to use one or the other of the two credits. She explained that in relation to the

three and one-half-year exemption, she is trying to determine why taxpayers wouldn't want to have the Exploration Incentive Credit applied against their taxes. She asked whether it is a mathematical calculation that would favor one over the other.

MR. SPANOS responded he suspects the taxpayers are claiming the Exploration Tax Credit in a different tax type. He said he is more familiar with the Education Tax Credit. A taxpayer cannot take the same tax credit in multiple tax types, he explained; the credit can only be taken in one tax return or can be broken up over multiple tax returns, but it's simpler to take it on one. He said he would analyze it and get back to the committee with an answer.

MR. SPANOS returned to his presentation. Displaying slide 17, he provided a five-year comparison of revenue from the Mining License Tax for the state's fiscal years (FYs) 2014 to 2018. He reiterated that the Tax Revenue Management System was rolled out in 2014 and said the division is comfortable with the number of taxpayers [being accurate] in FY 2015. But, he continued, the number was perhaps undercounted in FY 2014 when the division's recording was done in a folder system. He said \$47.3 million was collected in tax from 423 tax returns in FY 2018, but 10 companies are paying the majority of the tax.

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REPRESENTATIVE HOPKINS observed on slide 17 that the revenue coming into the state was up and down over the five years being compared, plus new mines seem to inversely relate to the amount of money that came in. He noted the total revenue was \$23 million [in FY 2014 with 366 taxpayers], \$38 million [in FY 2015 with 468 taxpayers], \$11 million [in FY 2016 with 503 taxpayers], \$41 million [in FY 2017 with 462 taxpayers], and \$46 million [in FY 2018 with 423 taxpayers]. Observing that the revenue [went down to] \$10 million in FY 2016 when the number of taxpayers [went up to] 503, he asked what causes such discrepancy year to year.

MR. SPANOS answered that the number of taxpayers doesn't correlate at all to the revenue because it is primarily 10 taxpayers that are paying that revenue. He said the large number of licenses being seen could just be suction dredgers in Nome. The division has a hard time getting certain taxpayers to get a license, he noted, so it could just be that one year they decide to be compliant and the next year they decide not to be compliant. There may be the exact same number of miners from

year to year but a different number of licenses from year to year. Therefore, he continued, the revenue is the better thing to look at. The revenue is dependent upon the value of the minerals being sold - if zinc prices go down, revenue will go down, and if gold prices go up, revenue will go up. This is because the tax is based on net income, he explained, not on how much is mined, although that is a factor.

REPRESENTATIVE HOPKINS asked whether that means there was a 75 percent drop in the value of the commodities sold in Alaska in FY 2016.

MR. SPANOS replied it might not correlate that directly. Commodity prices might have gone down or expenses could have gone up, and other factors that could also weigh into that. He deferred to the industry for help with an answer because the Tax Division is the revenue collector and sees things after the fact. The division verifies numbers, he continued, but doesn't necessarily have the expertise as to what factors drove the drop in net income.

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REPRESENTATIVE TUCK asked whether the CBR Fund on slide 17 is the Constitutional Budget Reserve Fund.

MR. SPANOS responded correct.

REPRESENTATIVE TUCK inquired whether that is the result of litigation.

MR. SPANOS answered the constitutional language would lead one to think that, but actually it has been interpreted by the courts to mean that the beginning of a litigation is an assessment. Any audit assessment or revenue letter, even a \$25 penalty for non-electronic filing of a tax return, he said, are all assessments that would go into the CBR Fund once paid.

REPRESENTATIVE TUCK offered his understanding that any assessment that has gone to court goes into the CBR Fund automatically.

MR. SPANOS replied that that was the division's interpretation at one time. However, the [1994] Hickel v. Halford decision stated it didn't even have to go to court, he said. So long as the division sent the taxpayer a notice and demand for payment, that was the beginning of the litigation regardless of whether a

litigation actually happened, and therefore the division needs to transfer the money into the CBR Fund if a payment is made on an assessment. So, he continued, any assessment in the Mining License Tax would be paid into the CBR Fund.

REPRESENTATIVE TUCK offered his understanding that it doesn't have to go to court. He asked how the final assessment is determined.

MR. SPANOS responded it could be just a simple audit. He added it would be a notice and demand for payment, so if it shows up on that demand it would be considered CBR.

MR. SPANOS noted his presentation is complete.

CO-CHAIR TARR outlined the questions needing follow-up: the number of taxpayers; the use of the Exploration Incentive Credit versus the Education Tax Credit, and comparison of the three and one-half-year exemption to the timeline of how long it takes for a mine to come on line.

MR. SPANOS said the division would be sure to respond to those questions.

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The committee took a brief at ease.

**PRESENTATION(S) : MINING INDUSTRY UPDATE**

[2:27:01 PM](#)

KAREN MATHIAS, Executive Director, Council of Alaska Producers, co-provided the PowerPoint presentation entitled, "Mining Industry Update," dated 4/8/19. She began the update with a "safety moment" in which she urged that any committee members taking a tour of a mine to please take the safety glasses home and use them.

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DEANTHA CROCKETT, Executive Director, Alaska Miners Association, co-provided the presentation entitled, "Mining Industry Update," dated 4/8/19. She displayed slide 2 and outlined the topics she would be discussing. Moving to slide 3, she pointed out that everyone is dependent upon the extraction of minerals for the mine products that people depend on. To illustrate this she

showed slide 4 with a photograph of turbines at the Fire Island Wind Farm in Cook Inlet and explained that no matter the source of renewable energy, it takes a substantial amount of minerals. Hybrid vehicles take almost twice as much copper as traditional vehicles, so the mining industry has a huge part to play in renewable energy, she said. Turning to slide 5, she noted that gold, silver, copper, and tungsten are some of the metals in cell phones. Alaska has three primary gold producers and one of the nation's top silver producers, she continued, so it is possible that Alaska minerals are in the phones of Alaskans.

MS. CROCKETT displayed slide 6 and said the red stars on the map of Alaska depict producing mines [Red Dog, Fort Knox, Northern Star Pogo, Usibelli, Kensington, Greens Creek], the blue triangles depict projects in permitting [Donlin, Pebble]; and the green stars depict advanced exploration projects [Upper Kobuk, Graphite Creek, Livengood, Palmer].

MS. CROCKETT addressed the producing mines. She related that Red Dog Mine is located on NANA Regional Corporation land, is the largest lead and zinc producer in the U.S., and has about 600 employees. She stated Fort Knox is in its twenty-third year of operation, is [Alaska's] largest producing gold mine, and has 640 employees who drive between work and home each day. Fort Knox has expanded into its Gilmore deposit this year, she continued, which will extend the life of the mine. She said Pogo is the only mine located entirely on state land, has been mining since 2006, has 320 employees, is currently the eighth largest gold producer in the U.S., and was acquired last year by Northern Star Resources, a company new to Alaska. She reported that Usibelli Coal Mine, the state's only coal mine, has been operating since 1943, has about 100 employees, and provides 39 percent of Interior Alaska's electricity generation. She said Kensington Gold Mine began producing gold in 2010, is currently undergoing exploration to extend the life of the mine, and at 387 employees is Southeast Alaska's second largest private employer in terms of payroll. She stated that Greens Creek Mine is the largest silver producer in the U.S., is one of the top ten producers worldwide, and at 420 employees is the largest private employer in Southeast Alaska in terms of payroll.

MS. CROCKETT addressed the two projects currently in permitting. She stated that late last year Donlin Gold Mine saw a final environmental impact statement and joint record of decision from the U.S. Bureau of Land Management (BLM) and the U.S. Army Corps of Engineers (USACE). Donlin anticipates 1,000 production jobs depending on that production timeline, she noted, and during its

camp operations the mine had a 90 percent Calista Corporation shareholder hire rate. She said the other project in permitting is the Pebble Mine, a project on which the committee has already heard three presentations.

MS. CROCKETT addressed the advanced exploration projects. She stated Alaska has a lot of exploration, but explained that advanced exploration projects are considered advanced because the viability and economic feasibility of those projects are being looked at. She noted that much of the Upper Kobuk Mineral Projects is (UKMP) is taking place on NANA Regional Corporation land and extensive viability and economic feasibility studies have been done. She said Graphite Creek is a graphite deposit near Nome that is looking at its economic assessment, and the Livengood gold deposit north of Fairbanks recently completed a second feasibility study. She related that the Palmer Project near Haines is a deposit of zinc, copper, gold, and silver that is going through a preliminary economic assessment.

MS. CROCKETT pointed out that the more than 200 active placer mines in the state are not shown on the map. While typically smaller in nature, she said, they do have a big impact on Alaska. She called attention to the yellow dots on the map located all over the state and explained that they are communities where mining employees live.

[2:29:40 PM](#)

REPRESENTATIVE RASMUSSEN asked what the placer mines mean in terms of jobs and what they bring economically to the state.

MS. CROCKETT replied that a couple years ago the Alaska Miners Association looked at the economic benefits of just the placer mining industry because it was being said that placer mines in aggregate constituted a seventh large mine in Alaska. It turns out this is right, she continued. Over 1,100 jobs are provided and the economic benefits in terms of wages, procurement, and taxes paid are very similar to one of the large mines. She said she would get back to the committee with specific numbers.

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REPRESENTATIVE HANNAN noted Livengood is an area where mining has occurred for over 100 years. She surmised that the mining was by individual placer miners and asked whether it is likely that Livengood will be considered a new mine when it comes on

line since a new corporation is developing it versus many individual miners 100 years ago.

MS. CROCKETT confirmed Livengood was discovered as a result of placer operation, which found a load deposit that was determined to have the resources for developing a large mine. She stated it would be different investors and a different permitting system altogether and that while she cannot say in certainty [that it would be considered a new mine, it would be a very new type of mining and new application of mining. She said she would get back to the committee.

MS. CROCKETT resumed her presentation. Displaying slide 7, she answered the question of, "Why mine here in Alaska?" She said a superb job at mining is being done in Alaska and the mining operations and the agencies regulating them account for what is a world class regulatory system. She stated that Alaska's mines are permitted for the protection of air, land, water, fish, wildlife, and human health and that the strict regulatory oversight throughout a mine's life doesn't end when the mine closes. Extensive planning takes place beforehand for closure, she said, and oversight of the mine continues post-closure for reclamation and restoration of the site. Also, she added, there is tailored financial assurance, meaning that if for some reason the state must step in and perform that reclamation, the money is there to cover the cost.

MS. CROCKETT explained slide 8 depicts what it takes to permit a mine in Alaska and that this information was provided by the Department of Natural Resources (DNR).

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REPRESENTATIVE HOPKINS brought attention back to slide 7 and asked whether it is Alaska's regulatory system that Ms. Crockett is saying is world class.

MS. CROCKETT confirmed she was referring to Alaska's regulatory system because in a number of cases Alaska has gone above and beyond in its permitting and oversight of mining operations.

MS. CROCKETT returned to slide 8 and explained it is an example of the approval process to permit a large mine in Alaska. She pointed out that dozens of local, state, and federal agencies are involved in this process and that the permits listed on the slide are those that are typical for a mine that is being permitted on state or privately held land. She noted that a

mine located on federal land would have a significant number of additional permits, such as those that are under the BLM or the U.S. Forest Service (USFS) mining regulations. The permits listed on slide 8, she continued, contain multiple stipulations that are in addition to the compliance with Alaska's statutes and regulations. Alaska's permitting agencies can, and often do, prescribe additional practices to the operations to be performed that are outside of Alaska's governing laws. It is important to understand, she added, that this permitting process and all of these permits being obtained by a developer do not guarantee approval. Achieving each and every one of these is a back-and-forth project between the developer and the agencies, she said, and throughout this process there are multiple opportunities for public participation.

REPRESENTATIVE HOPKINS inquired how Alaska compares to other states in terms of state permits that are required for such things as air, water, fish, and habitat.

MS. CROCKETT responded that the mines being permitted on federal land would have a lot of similarities, but offered her belief that mines being permitted on state or privately owned land would be more specific to Alaska. She said she would get back to the committee with a side-by-side comparison.

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MS. CROCKETT resumed her presentation. Displaying slide 9, she said Alaska has one of the best water quality monitoring systems in the world with respect to mines. Alaska's three-part system has some unique requirements that set it apart from other jurisdictions, she explained. First, Alaska does the standard water quality monitoring. Second, Alaska goes a step further with biomonitoring, uncommon in other jurisdictions, in which the Alaska Department of Fish and Game (ADF&G) oversees monitoring of benthic algae and fish, including metals uptake by fish and their habitat and population. Third, Alaska requires a third party audit. This transparent public process monitors the company's compliance as well as the agencies that monitor the company's reporting and results.

REPRESENTATIVE RAUSCHER requested Ms. Crockett to speak to the improvement of the water in Red Dog Creek once mining began.

MS. CROCKETT confirmed that this is right. Due to naturally occurring mineralization, she said, the creek water was devoid of aquatic life. When the mine went in, the required treatment

of the mine's wastewater actually cleaned up Red Dog Creek and made it hospitable to aquatic insects, vegetation, and fish.

REPRESENTATIVE TUCK requested an explanation of the three pictures on slide 9.

MS. CROCKETT replied that the left picture is phytoplankton, the middle picture is aquatic insects, and the right picture is a fish. She said these three things are what ADF&G monitors when conducting water quality monitoring around a mine site.

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MS. CROCKETT returned to her presentation and displayed slide 10 as an illustration of Alaska mines doing it right. Fish Creek near the Fort Knox Mine is an example of doing things outside of the governing statutes and regulations, she said. Placer mining took place here during the Fairbanks gold rush of the 1900s, she recounted, and left behind a barren area uninhabitable by the native fish populations. Fort Knox didn't operate in this area, she continued, but development of the mine created opportunities to fix the damage and revitalize the fisheries. The mine worked with ADF&G to construct the stream channels seen in the upper right photo, she explained, which provided for fish passage between isolated ponds. The vegetation was diversified from mainly black spruce to shrubs, willows, and other plants that moose love. This area essentially became a fish and wildlife sanctuary, she said. She related that ADF&G's restoration goal for fish size and population was achieved in two years. She noted that summaries of the ongoing monitoring of this successful project are available on DNR's web site.

MS. CROCKETT turned to slide 11 and discussed reclamation and closure. She explained that Alaska law [AS 27.19] requires that a mine's reclamation and closure plan be approved by DNR before operations can begin. Mines must also provide financial assurance in the event the obligations cannot be performed, she said, and the amount of that assurance must also be approved before operations begin. Financial assurance applies to all companies regardless of where they are headquartered and to all mines regardless of the land status that they are located on. She noted that third party reviewers evaluate the operation and reclamation plans and conduct oversight of the state and federal agencies that are regulating the operation and approving the reclamation plan. Alaska is the only state that does this in terms of mining, she added.

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KAREN MATHIAS displayed slide 12 and highlighted the findings of a recent economic impact study done on mining by the McDowell Group. She reported that the mines provide 4,500 direct jobs, plus thousands of jobs in transportation, environmental management, and camp services, all jobs that are paid for by the mine even though they aren't direct employees. The [average annual] salary of jobs in the mining industry is \$102,000, she said, which is twice the state average. These jobs tend to be year around and many are in rural areas, she continued, and mining is important to regions in Alaska. Additionally, she said, many businesses contract with the large mines - the last numbers show about half a billion dollars in procurement with Alaska businesses.

MS. MATHIAS turned to slide 13 and reviewed the benefits to Alaska Native corporations. The story of mining in rural Alaska is more than just the data, she said. For example, Red Dog Mine has had a positive impact on people's lives in Northwestern Alaska; with 55 percent of Red Dog's employees are NANA Regional Corporation shareholders. She related that when sending out the agreement for the mine's construction back in the 1980s, NANA wanted royalties as well as opportunities for its people to work in the mine and to have contracting opportunity. So, she continued, it was a three-fold economic impact in addition to assuring that NANA maintained strong oversight for marine mammal protection and the environment.

MS. MATHIAS moved to slide 14 and discussed local and state government revenue. She said local governments received \$34 million [in 2018]. The two largest taxpayers within the City and Borough of Juneau are from the mining industry, she noted, and the largest taxpayer in Fairbanks and in Northwest Arctic Borough is also the mining industry. Mining is very important to other regions, she continued, such as Nome, Healy, and Delta Junction. She pointed out that \$103 million went to state government [in 2018], as well as \$46 million in other state government-related revenue.

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MS. MATHIAS addressed slide 15 depicting a graph of the five-year average of state revenue versus state costs for mining from a 2016 study by the University of Alaska's Institute of Social and Economic Research. She said it is important to consider the net benefit of mining to the State of Alaska. She pointed out

that the annual average of state and local revenue was over \$100 million, while the state's annual operational and capital costs were much lower [about \$10 million]. One reason for the large net benefit to the state, she continued, is that the state is able to bill its permitting, monitoring, and oversight costs to the mining companies.

MS. MATHIAS displayed slide 16 and noted that land ownership really matters when it comes to revenue. The state only gets a royalty payment if the mine is on state land, she explained. For example, she said, Red Dog Mine is on NANA land, so NANA gets the royalty. However, she continued, all of the mines pay the Alaska Mining License Tax and also the [Corporation] Net Income Tax.

MS. MATHIAS turned to slide 17 and outlined sources of the \$148 million in state revenue in 2018. She said the Alaska Mining License Tax, rent, and royalties [provided \$58.8 million]. The Corporation Net Income Tax [provided \$34.6 million], she continued, and the Alaska Industrial Development and Export Authority (AIDEA) received [\$28.2 million] for use of the Skagway ore terminal and the Red Dog port and road system.

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REPRESENTATIVE HANNAN noted the Red Dog Mine is entirely on Native corporation land. She asked whether the other producing mines are on Native or state lands.

MS. MATHIAS responded by flipping ahead to slide 20. She stated that the five largest producing mines are metal mines and that Usibelli Coal Mine is the sixth largest mine in the state. Pogo and Usibelli, she said, operate exclusively on state land and the royalties go directly to the state. Only a portion of the Fort Knox and Kensington mines, she continued, are on state land. There are other mines that are not operating on state land at all, she added.

MS. MATHIAS turned to slide 18 and resumed her presentation. Regarding the Alaska Mining License Tax, she said there were years of declining commodity prices, declining exploration and spending, and declining job numbers, while the only thing that seemed to be increasing was operational cost. All of this, she continued, was reflected in the revenue the state received. This turned around in 2016, she stated, and the jump in revenue was because things had improved.

MS. MATHIAS moved to slide 19 and said it is important to look at a bigger picture than just the Alaska Mining License Tax. She explained that from a company's standpoint a tax is a tax - it doesn't matter whether the company is paying one type of state tax or a federal tax - it all is a cost of doing business and so a company looks at it in aggregate. She pointed out that a mine on state land is paying federal corporate tax, state corporate tax, the Alaska Mining License Tax, and a royalty. Five of the six producing mines are in organized boroughs, she continued, and are also paying a local property tax or a payment in lieu of taxes (PILT), plus local taxes on local procurements.

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MS. MATHIAS displayed slide 21 and said it isn't just about revenue to state government - mining pays its way. She noted that to bring a mine into production the mining companies pay their exploration, development, and construction costs, which can be hundreds of millions, maybe even billions, of dollars for the large mines using modern technology. She pointed out that mining is more expensive in Alaska than in other states because Alaska lacks infrastructure. In addition to setting up the mine operation and the mill, she continued, a mine may be looking at paying the costs of building a power source, a road, or a port. Plus, she added, every mine must put up a bond for reclamation and closure.

MS. MATHIAS turned to slide 22 and pointed out that mines must pay Reimbursable Service Agreements, which is the amount that the state bills back to the companies for the state's permitting and oversight costs. She reported that between the years 2012 and 2017 this amount fluctuated between \$1 million and \$2.6 million. This fluctuation, she explained, is because when a large mine starts permitting there is a real increase in permitting cost.

MS. MATHIAS spoke to AIDEA's return on investment as outlined on slide 23. She noted there are a couple exceptions to mines having to pay their infrastructure costs, one being the [\$265 million] investment that AIDEA made into the Red Dog port and road. She explained that AIDEA has a dual mandate - it must make wise investments that make money for the State of Alaska and it must make investments that will increase economic growth in the state. She said the Red Dog port and road have been an absolute success for AIDEA in regard to these mandates. She specified that for an initial investment of \$265 million, AIDEA

has received \$465 million [as of 12/2017] and the contract goes to 2040.

MS. MATHIAS moved to slide 24 depicting a graph of exploration spending for the years 2011 to 2018. She opined that the "Fraser report" is a survey and is the perception of individual mining executives giving their personal view and experience. It is more important to actually look at where they spend their money, she continued. She related that the four years from 2011 to 2016 saw an incredible decline in exploration spending in Alaska, as well as globally. Commodity prices tanked, she said, companies had to write down a number of acquisitions, and it was almost impossible to raise money for mining exploration because investors were very cautious. That has started to turn around over the last couple years, she continued; commodity prices are improving and there is a bit more ease in raising money on the stock exchanges. While this upward trend is far from what it was, she added, it is going in the right direction and the expectation for Alaska is that 2019 will be as good as 2018 or potentially better.

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S. MATHIAS displayed slide 25 and discussed how to ensure the increase of [exploration]. She said modern economies around the world need minerals. While Alaska has world class deposits, she continued, it must compete for global investment with all of the other mining jurisdictions in the world. Alaska competes by having an attractive investment climate, she added. Alaska has specific challenges, such as the lack of infrastructure, climate, distance from markets, she noted, but what can be controlled is the perception that Alaska is a good place to do business. If Alaska doesn't send that message, she warned, then the limited capital can go to other jurisdictions. Policies that show fiscal certainty and regulatory certainty help investors make that decision, she said. Ultimately, she continued, that means more money in Alaska, more jobs, more opportunities for Native corporations through revenue sharing, more local procurement, and more revenue for state and local governments. Many Alaska communities and thousands of Alaskan miners and their families depend on a healthy mining industry.

MS. MATHIAS discussed a slide not included in her prepared presentation. She said the slide is for an electronic fund that includes multiple commodities and depicts information up to the year 2017. Because the fund invests in many mining stocks, she noted, it provides a sense of how volatile commodity prices are

and what is happening in the industry. She explained that the huge dip on the far left side of the slide is the 2008 financial crisis. She drew attention to the steady decline from the high in 2011 until 2016 and said one reason the Alaska [Mining] License Tax was so low in 2016 was a result of four years of decline.

MS. MATHIAS related that a recent report from the Alaska Department of Labor and Workforce Development says 62 percent local hire. She said it doesn't include contractors and some self-employed, including many of the 1,100 placer miners, and therefore the numbers in the McDowell Group study tend to be higher. However, she continued, in places where it is easy to get to work, like Fort Knox, 100 percent of the employees are Alaskans living in the Fairbanks North Star Borough. [At the Red Dog Mine] 55 percent of the more than 600 jobs are NANA shareholders and [the mine's] overall Alaska hire is 75 percent. The industry wants to hire Alaskans, she opined, because Alaskans already know what it's like to live in Alaska and are more likely to stay and make good employees. She said the industry has tried to encourage that by supporting scholarships and training programs. Through the Educational Tax Credit, \$20 million was invested into vocational programs at high schools and the University of Alaska to support programs that train Alaskans to be the next generation of miners in Alaska.

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REPRESENTATIVE RAUSCHER pointed out that, while the Northern Star Pogo Mine may not be paying local taxes, the mine does have some nice contracts with the community in Delta Junction and it supports that community and area very well. He noted he is the representative for that district.

CO-CHAIR TARR commented that the lack of infrastructure might not be unique to Alaska. She recognized that Ms. Mathias is Canadian and asked whether other big geographic areas have better solutions for that.

MS. MATHIAS replied that a comparison was done of a mine in northern Ontario that went into production a few years ago, the mine being roughly the same size as Donlin in the amount of throughput and how much would be milled each day. She offered her belief that the capital investment was just over \$1 billion Canadian while Donlin is looking at \$6-\$7 billion. She said the mining jurisdictions in Canada have found ways, even in remote areas, to incentivize mining, whether it is through more

public/private partnerships in infrastructure and electrical transmission investment, or other ways such as tax incentives.

MS. CROCKETT, responding to Representative Talerico, reiterated that Usibelli Coal Mine provides 39 percent of Interior Alaska's electricity.

CO-CHAIR TARR reminded the presenters that they had agreed to get back to the committee regarding a state comparison for required permits.

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#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:05 p.m.